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Dear Commissioners:

Bitcoin and similar 'virtual currencies' hold tremendous potential. There is significant community concern regarding the possibility of 'over regulation.' Currently, it seems clear that the primary purpose of the Bitlicense, is two-fold. One, to ensure proper AML/KYC compliance in preventing money laundering and illegal activity and two, to sufficiently protect consumer participants. Unfortunately, due to the open-source nature of Bitcoin, although the current proposed regulation seems to fix many issues, it also creates many more.

Currently, most of the comments concerning the Bitlicense revolve around financial entities facilitating transactions on and off the Blockchain and the conversion of virtual currency to fiat currency. As the topic of failure points and conversion and laundering of illegal to legal currency through mining and dummy exchanges has previously been covered; those issues will not be discussed. Additionally although there are valid privacy concerns regarding openly displaying the entire content's of ones Bitcoin address and the person associated with said address, that is not the purpose of this comment. The purpose of this comment is to direct attention to what requirements a virtual currency must meet to be sold and concerns revolving around network strength.

The Bitlicense fails to establish proper regulatory safeguards aimed at protecting consumers insofar as they make no mention of satisfactory virtual currency network strength. The Bitlicense fails to establish quantifiable metrics that a virtual currency must meet to be listed and sold on regulated exchanges. Amongst the lack of quantifiable metrics are any concerning sufficient network strength to weather an attack. There are no metrics showing the minimum required network strength required for a virtual currency to then be listed, regulated, and sold to consumers as a commercial product. There is no threat assessment as to what would be required to successfully attack a virtual currency. As it may not be in the best interest of a financial institution to prevent the listing of a virtual currency they could facilitate in the exchange of and earn fees on trades, it is the responsibility of the State to ensure adequate business and consumer protection. Listing a weak coin susceptible to a third party attack could in and of itself expose the financial institution to significant levels of liability if a successful attack was completed. Offering a virtual currency without requiring fulfillment of any due diligence steps or establishing what due diligence is required before listing a virtual currency fails to adequately protect consumer interests.

This begs the question, what protections, if any, does the Bitlicense offer a consumer. Critically, although the Bitlicense requires a financial institution to meet certain bonding levels, it takes no steps to ensure that the coin itself and network strength is sufficiently solvent. Absent proper procedures, exchanges can list coins susceptible to attack and thereby significantly harm consumers. It is proposed that steps be taken to establish due diligence procedures concerning the listing of virtual currencies and protection of the network.

It is argued that financial institutions should individually contribute to the upkeep of the network at a percentage rate equal to their ongoing bonding requirements but at a rate level of never more than 35% of the network strength. This would, in addition to helping protect the network from a third party attack, help prevent mining conglomerates from forming and help sustain the development and maintenance of new mining hardware.

As such, in addition to having financial institutions have proof of Bitcoin reserves in addition to carrying insurance and being properly bonded, they also help ensure their transactions are timely confirmed by the network.

Although there is KYC and AML language in the Bitlicense regulations, they do not actually safeguard the technology. No steps have been suggested or taken to help safeguard network strength and ensure transactions are mined and included with found blocks. Although a lot of these issues may be moot when it comes to protecting and safeguarding larger more well established coins like Bitcoin, there are currently over 500 different alternative virtual currencies in circulation and many are susceptible to attack but are still listed on virtual currency exchanges. Many have already suffered various double spend attacks, forking attacks, and similar network attacks aimed at either temporarily influencing the price or gaining control of the coins. As these proposed Bitlicense regulations aim at covering not just Bitcoin but all virtual currencies, special consideration must be taken concerning what virtual currencies will be made available to the public and what if any requirements must be met to ensure that matured products are marketed and consumers are adequately protected.

To summarize, it is suggested that regulations be imposed to determine when a virtual currency has met requirements indicating that it is mature enough to be sold and regulations be imposed aimed at supporting and protecting the virtual currency network of any coin being sold by financial institutions.

Thank you for your time and consideration concerning this important regulation.

Sincerely,

Thomas C. Nolte, Esq.